

*Discussion:* The Departmental practice of requiring borrowers who consolidate only one FFEL Program loan into the Direct Loan Program to initially select a repayment plan other than the standard repayment plan had been implemented in response to the concerns of the FFEL community.

However, none of the commenters wrote in support of this provision. Further, the only specific comment addressing this proposal was received from a member of the FFEL community, and that commenter urged the Secretary to delete this provision.

*Change:* Proposed amendments to §§ 685.208, 685.210 and 685.215 have been removed.

#### *Section 685.301 Origination of a Loan by a Direct Loan Program School*

##### *Section 685.301(a)(5) Determining Eligibility and Loan Amount*

*Comments:* Several commenters supported the amendment to clarify the date of loan origination. One commenter objected to the Secretary's clarification of the date of loan origination for the Direct Loan Program. This commenter felt that both the Direct Loan and FFEL Programs should establish the same definition for the "date of origination." If this is not possible, the commenter suggested the Secretary create another term for "the date of origination" in the Direct Loan Program to avoid possible confusion among Direct Loan and FFEL Program participants.

*Discussion:* It is important to establish clearly the date of origination, because a school may only originate a loan while the borrower meets the eligibility requirements. The NPRM proposed that the date of loan origination be the earlier of the date the promissory note is printed or the date the origination record is accepted by the Secretary. Beginning with the 1996–1997 academic year, enhanced loan origination software will record the date of origination permanently on the borrower's loan file when the borrower's origination record is created by the school. Modifying the Direct Loan school software to record automatically the date the school creates the origination record will ensure that the school is able to document clearly the date that it certified a borrower's eligibility for a loan, the loan amount, and anticipated disbursement dates. Further, because the electronic origination record is created earlier in loan processing than either printing the promissory note or the origination record being accepted by the Secretary, this change will result in improved service to both schools and borrowers.

Service to schools is improved because the information necessary to document the origination process is automatically generated in the student's electronic file; service to borrowers is improved by promoting flexibility in processing loans.

The Secretary is making every effort to ensure conformity between the Direct Loan and the FFEL Programs whenever possible. However, there is no definition of "date of origination" in the FFEL Program. Further, the programs operate differently and it is impossible to attain absolute conformity between the programs in all aspects. For example, loan origination in the Direct Loan Program is similar to certification of the loan application in the FFEL Program but because of the inherent operational differences between the program, the two events are not necessarily identical. In the FFEL Program, school officials certify borrower information on a combined application and promissory note. In the Direct Loan Program, the application process is separate from certification of loan information. Therefore, Direct Loan eligibility is certified by means of the electronic origination record and a written statement provided by the school after submitting the origination record. On the origination record, a school certifies a borrower's eligibility, the loan amount, and the anticipated disbursement dates. Due to these operational differences, it is not appropriate to have the same provision in both loan programs. Further, because very few schools participate in both the Direct Loan and FFEL Programs, the Secretary does not believe that this terminology will cause confusion.

The Secretary wants to clarify that the use of the phrase "date of loan origination" in the Direct Loan Program is intended for operational purposes only and does not constitute a commitment on the part of the Federal Government to make a loan. This distinction is important to avoid possible confusion with the use of the term "origination" for Federal budgetary purposes.

*Changes:* The regulation has been revised to reflect that the date of loan origination is the date a school creates an electronic loan origination record.

##### *Section 685.301(d) Reporting to the Secretary*

*Comments:* Three commenters felt that the requirement for schools to submit the promissory note, disbursement record, and origination record no later than 30 days following the date of disbursement of loan funds was too restrictive. One of these

commenters asked the Secretary to reconsider this timeline because the 30-day deadline would be too burdensome to adhere to in light of other program requirements, such as reconciliation reporting requirements. Another of these commenters suggested that the timeline be extended to 45 days to aid financial aid administrators during their demanding Fall season. This commenter felt that the extra 15 days would make a significant difference in the management of financial aid processes.

Several other commenters strongly endorsed the 30-day reporting requirement. They argued that if schools are required to submit these documents to the Secretary quickly, borrowers will be better served. Additionally, these commenters felt this requirement would result in the reconciliation processing working more smoothly and occurring on a more timely basis—ultimately leading to better fiscal control over federal funds.

One commenter recommended that regulations be added to limit a school's ability to draw down funds until the school had reconciled the funds it had already disbursed. Another commenter recommended that, even though the commenter supported the 30-day reporting requirement, the Secretary should grant schools a brief extension if this requirement presents unanticipated compliance difficulties.

*Discussion:* The Secretary disagrees with the commenters that assert that this requirement is too restrictive and overly burdensome for the schools. In previous guidance, the Department has advised all Direct Loan schools that they should reconcile and submit all loan origination records, promissory notes, and disbursement records on a monthly basis [see the April 26, 1994, Announcement of Criteria for Loan Origination—1995–1996 Academic Year (59 FR 21804) and Chapter 7 of the *Direct Loan School Guide*]. This requirement is needed to ensure that borrowers receive disbursement disclosure information and loan servicing information shortly after the loan is disbursed. Further, Direct PLUS Loan borrowers enter repayment when the loan is fully disbursed and the Department must receive disbursement information in a timely manner in order to establish repayment terms. Requiring the timely submission of program data by schools to the Direct Loan Servicer will enhance the Department's administrative and fiscal oversight capabilities and will help ensure that up-to-date data are maintained in the National Student Loan Data System.

After a year of experience in administering the Direct Loan Program,